UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1995/3
7 June 1995

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

REPUBLIC OF KOREA

1. The Committee considered the initial report of the Republic of Korea on articles 1 to 15 of the Covenant (E/1990/5/Add.19) at its 3rd, 4th and 6th meetings (E/C.12/1995/SR.3, 4 and 6) held on 2 and 3 May 1995 and adopted* the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for its comprehensive report, prepared largely in conformity with the Committee's guidelines, and for the written replies to the list of questions made available to it before the session. The State party is also to be commended for sending a large high level delegation to discuss the report and for its useful dialogue with the Committee. The Committee, however notes, that the report, although comprehensive in form provided information which in many areas was excessively general in content. Accordingly, the offer of the Government to furnish further and precise written responses to questions posed is welcomed. The Committee appreciates the subsequent prompt submission of those replies on 5 of May 1995 by the Government of the Republic of Korea.

---

* At its 27th meeting (twelfth session) held on 18 May 1995.

B. Positive aspects

3. The Committee notes, with satisfaction, the significant and rapid economic growth during the past 30 years in the Republic of Korea and that the considerable material progress achieved should lay the foundation for the enhanced enjoyment of economic, social and cultural rights. The Committee further notes the first steps taken towards the development of a social security system appropriate to a country at the Republic of Korea's stage of development. Further positive developments in the Korean society are evidenced by the virtual eradication of illiteracy among all sectors of society other than older persons, the increase in the level of life expectancy and the efforts to increase the national housing pool.

4. The Committee takes note of the recent legislative attempts to address the problem of violence against women in the family and the attempt to recognize the rights of women to inheritance.

5. The Committee welcomes establishment of human rights focal points in the major government ministries, including the provision of legal aid through the introduction of the Public Legal Officers System.

C. Factors and difficulties impeding the application of the Covenant

6. The Committee recognises that Korea is passing through a period of social and political transition. The developments in each of these areas have not been sufficiently balanced. The efforts and achievements in securing outstanding and rapid economic growth have not always been matched by an appropriate level of protection of economic, social and cultural rights. It is also acknowledged that the country has only recently emerged from a sustained period of military rule to a system of democratic government and that it faces a heavy agenda of changes in the establishment of a civic society, particularly in the face of deeply entrenched social prejudices. Finally, problems deriving from the political partition of the Korean peninsula continue to impose a pervasive fortress mentality arising from perceived threats to national security.

D. Principal subjects of concern

7. The Committee is concerned as to the status of the Covenant in national law. Although representatives of the Republic of Korea have asserted that all domestic legislation is consistent with the provisions of the Covenant, the Committee remains concerned that no mechanisms exist permitting the verification of compatibility between domestic legislation and the provisions of the Covenant.

8. The Committee is of the view that restrictions concerning the right to form trade unions are not consistent with the obligations assumed by the Republic of Korea under article 8 of the Covenant. There is no apparent reason for the ban on the formation of trade unions by groups such as the teaching profession, particularly where the prohibition does not apply to other groups including workers in the defence industry. Similarly, the regulations concerning the right to strike are excessively restrictive and

would appear to leave to the authorities an almost absolute discretion in the determination of the legality of incidents of industrial action. Whilst acknowledging the cultural traditions of the Republic of Korea, including the high esteem in which teachers are held, the Committee finds this to be a wholly unacceptable basis on which to defend the excessive limitation on the freedom of significant sectors of the Korean society to enjoy the basic right to belong to unions of their choice.

9. The Committee is also greatly disturbed by reports of dismissals for engaging in industrial action and of police attacks on trade unionists engaged in peaceful activities.

10. Despite the Government's stated policy and its range of special programmes, the Committee views the situation of women in Korean society as very unsatisfactory. In all areas of life women suffer from discriminatory practices due to many factors, including long standing cultural prejudice. In the home, the subjugation of women is evidenced by the very high levels of domestic violence against them which is disclosed in the Government's report. Notice is also taken of such anachronistic rules as the legal inability of a woman in certain cases to vest her nationality in her child. In education the disparities between the percentages of men over women in second and third level institutions is disturbing. In this regard the Committee observes that the lack of access to and high cost of secondary and higher education contribute to the low rate of female participation.

11. Particular concern is expressed as to the wage differential between men and women and to other discriminatory practices in the workplace including an apparently high rate of sexual discrimination in recruitment. The Committee expresses its concern with regard to the non-enforcement by the Government of its own policies and legislation in these matters.

12. The Committee is alarmed that there has been a relatively high incidence of accidents in the workplace in Korea and that there has been a failure to adequately address the problem. It is especially disturbing that various work-place regulations do not apply to enterprises with fewer than 10 employees. The failure of minimum wage regulations to extend to staff of these enterprises is to be regretted and the Committee welcomes the Government's stated intention to review the situation. The conditions and treatment of those non-nationals in the Korean workforce give cause for concern and the information made available to the Committee by the Government does not disclose an adequate range of legal measures to protect such workers.

13. The Committee is disturbed by a range of features of the Korean education system. Only primary education is provided free of charge. However, given the strength of the Korean economy it appears appropriate that free education should also extend to the secondary and higher sectors. The Committee also notes the acknowledgement made orally by the Government's representative that there is a severe problem of under supply of places in higher education resulting in extremely competitive entry requirements. One consequence of this situation is that private institutions are likely to raise their charges and thus force the children of the lower-income groups to stay out of the system.

14. The Committee is concerned by the housing situation in Korea and considers that it has not been given adequate information on the subject, especially with regard to unsuitable housing, the number of homeless people and forcible evictions. It notes that, according to international non-governmental sources, 720,000 persons were evicted on the occasion of the Olympic Games in Seoul and that no information has been provided on their subsequent situation, while 16,000 persons are said to have been evicted since February 1992. Lastly, according to national non-governmental sources, 4,000 evictions took place in 1994. Despite the Committee's concerns, there has been no response to its questions or, more generally, to problems relating to the right to housing.

15. The Committee is of the view that the Government, in view of its economic resources, has inadequately addressed the economic, social and cultural rights of the most marginalized members of society. Among categories of person who are in need of greater attention and concern are the very poor, the homeless and especially victims of severe physical and mental handicap.

E. Suggestions and recommendations

16. The Committee draws attention to the obligation on the Republic of Korea to ensure the status of the Covenant in the field of economic, social and cultural rights as superior to all national law whether precedent or antecedent. It recommends that all laws be examined in order to ensure conformity with the provisions of the Covenant. It also recommends that programmes of education be extended in order to increase awareness of the provisions of the Covenant throughout society and to ensure its application in the judicial process as well as its observance by the law enforcement agencies.

17. The Committee recommends that the Government immediately amend its laws and regulations concerning the freedom to form trade unions and the right to strike in order to bring them into compliance with the Covenant and with other applicable international standards. In particular, measures should be taken to ensure that teachers, civil servants and others have the right to form trade unions and to take strike action.

18. The Committee, though acknowledging the value of existing governmental programmes, urges that priority be given to the promotion of the role of women in the society. It is strongly recommended that in order to deal with discrimination against women, it is necessary to allocate resources to carry out a range of initiatives in the fields, inter alia, of juvenile and adult education, enhanced job opportunities, law reform and the administration of justice. It is also recommended that programmes should be introduced with a view to redressing the imbalances in the status of women in the Korean society.

19. The Committee recommends that the Republic of Korea extend the regulations on safety in the workplace and on minimum wages to enterprises with fewer than 10 employees. All improvements in conditions of work should be applied equally to national and non-national workers and existing discriminatory practices against those non-nationals currently employed should be eradicated.

20. The Committee recommends that appropriate measures should be taken in order more effectively to guarantee the right to housing and, in particular, to ensure that no evictions are carried out without offers of alternative housing, in accordance with the Committee's general comment No. 4. It would also like further information on the application of article 11 of the Covenant in Korea and in particular on the right to housing.

21. The Committee also recommends that immediate attention be given to problems in the field of education and in particular to enhancing the access of the most vulnerable and disadvantaged groups, and especially women, to secondary and higher education, the need for an expanded higher education sector. The Committee recommends that greater attention be given to the provision of human rights education at all levels in the school system.

22. While it is acknowledged that the Republic of Korea has introduced elements of a social welfare system, it is urged to proceed swiftly with its expansion to meet the needs of those on the margins of society including foreign workers. The protection of foreign workers needs, in its turn, particular attention especially considering their social isolation and vulnerability. Particular attention is drawn to the very poor, the homeless and the victims of severe mental or physical illness.